

1 **REMARKS**

2 Applicant has carefully considered the positions of the Examiner, and respectfully requests
3 reconsideration based upon the manifest differences between the claimed invention and the cited
4 references.

5 In the Office action dated December 3, 2003, the Examiner rejected claims 9-14 under 35
6 U.S.C. §112 as being indefinite. Applicant submits that this rejection is now moot in view of new
7 claims 51-87. Nonetheless, applicant thanks the Examiner for calling this to his attention.

8 Next, the Examiner also rejected the pending claims under 35 U.S.C. §103 as being
9 unpatentable over Hyodo U.S. Patent 5,737,395 ("Hyodo"), in view of Rondeau U.S. Patent No.
10 5,850,433 ("Rondeau") and Jonas et al. U.S. Pub. No. 2001/0040885A1 ("Jonas"). Applicant
11 respectfully submits that in view of the following remarks and the above amendments the Examiner's
12 rejections have been traversed.

13 Applicant submits that the Examiner has misconstrued the teachings of Jonas in combining
14 such teachings with the teachings of Hyodo and Rondeau, and therefore any such reliance on Jonas is
15 misplaced. Specifically, in the opinion of the Examiner "Jonas et al. teaches call forwarding and
16 routing calls via the Internet or the telephone (para. [0012] and claim 1), which reads on determining
17 that a caller is or is not connected to the Internet, and accordingly routing the voice call via the
18 Internet or telephone systems." Applicant respectfully disagrees. In particular, nowhere does Jonas
19 teach a system that is capable of determining whether a person is currently on the Internet and
20 available for receiving a real-time Internet communication. Rather, Jonas teaches a system in which
21 the determination of which Plain old Telephone Service (POTS) station is called is made by
22 determining what number is dialed by the caller (see Jonas, para. [0036]). Jonas et al. make no

1 determination about whether the called party (or anyone else for that matter) is on-line and available
2 for receiving a real-time Internet communication. In fact, none of the cited references teach or
3 suggest this novel aspect of the invention.

4 Moreover, the system disclosed by Jonas et al. merely teaches the termination of a call at a
5 POTS station where the call is initiated either at an audio ready computer or another POTS station
6 and where at least some portion of the call is transferred over a packet switched network. As such,
7 the system according to Jonas et al. would have no need for determining if a person is on-line and
8 available for receiving a real-time Internet communication. The only “determining” performed in the
9 Jonas system is performed by the telephone switch to determine which portion of the call is to be
10 carried over a packet switched network and which portion is to be carried over a circuit switched
11 network. In the rejection, the “forwarding” referred to by the Examiner (e.g., re Claim 1) is a request,
12 “forwarded” to the telephone switch, to convert protocols between a packet switched network and a
13 circuit switched network, such that a voice communication can ensue between an audio ready
14 computer and a POTS station. Neither the “determining” nor the “forwarding” by the switch
15 according to Jonas determines whether a user is currently on the Internet and available for receiving a
16 real-time Internet communication.

17 In addition, as the Examiner admits, “neither Hyodo nor Rondeau teaches determining that
18 said advertiser is, or is not connected to the Internet.” Therefore, even if a combination of Hyodo,
19 Rondeau and Jonas were proper, such a combination would still not teach or disclose the claimed
20 invention. Since claims 51-84 all claim a method for providing an enhanced computer based
21 advertising system which includes, in relevant part, determining if said advertiser is available for
22 receiving a real-time Internet communication, applicant respectfully submits that the Examiner’s

rejection has been traversed. Claims 51-84 are now believed to be allowable in view of the known art.

CONCLUSION

In view of the foregoing, applicant respectfully submits that the present invention represents a patentable contribution to the art and the application is in condition for allowance. Early and favorable action is accordingly solicited.

Respectfully submitted,

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David M. Hill
Reg. No. 46,170
WARD & OLIVO
708 Third Avenue
New York, NY 10017
(212) 697-6262